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# Agriculture Committee

**Wednesday, January 11, 2006**

**1:15 pm - 3:15 pm**

**214 The Capitol**

**MEETING PACKET**

Allan G. Bense  
Speaker

Ralph Poppell  
Dwight Stansel  
Co-Chairs

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

### Agriculture Committee

**Start Date and Time:** Wednesday, January 11, 2006 01:15 pm  
**End Date and Time:** Wednesday, January 11, 2006 03:15 pm  
**Location:** 214 Capitol  
**Duration:** 2.00 hrs

**Consideration of the following bill(s):**

HB 37 CS Security of Consumer Credit Report Information by Adams  
HB 365 Motor Vehicle Repair Shops by Glorioso

**Presentations:**

Hurricane damage to Florida's agricultural industry  
Farm Share, Inc.  
Florida Association of Food Banks, Inc.  
Citrus canker update

**NOTICE FINALIZED on 12/30/2005 09:32 by SIMS-DAVIS.LINDA**



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Safeguard Individual Liberty** – The bill allows a consumer to protect his or her personal information by placing a security freeze on his or her credit report and to remove or temporarily lift the security freeze at his or her discretion.

#### B. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **Fraud Alert**

The federal Fair Credit Reporting Act<sup>1</sup> (FCRA) provides two different types of fraud alerts that consumers may use to protect themselves against identity theft. Fraud alerts are designed to protect a consumer's private credit information if he or she suspects someone is attempting to open credit accounts in the consumer's name. When a business sees the alert on a consumer's credit report, the business must verify the consumer's identity before issuing credit. As part of the verification process, the business may try to contact the consumer directly.

A one-call fraud alert allows a consumer, or an individual acting on behalf of a consumer, who asserts in good faith that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, to request that a consumer reporting agency include a fraud alert on the file of that consumer and also provide that alert along with any credit score generated with that file for a period of 90 days unless the consumer requests that the alert be removed before the end of that time period. The consumer reporting agency must also refer the information regarding the fraud alert to each of the other consumer reporting agencies as described in current law.

An extended alert is provided for a consumer wishing to place an alert on his or her file for a period of up to seven years unless the consumer wishes to remove the alert before the end of that time period. During the first five years of an extended fraud alert, a consumer reporting agency must exclude the consumer from any list of consumers prepared by a consumer reporting agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction not initiated by the consumer. A consumer may request that the exclusion be rescinded before the end of the five year time period. The consumer reporting agency must also refer the information regarding the extended fraud alert to each of the other consumer reporting agencies as described in current law.

The FCRA requires that in any case where a consumer reporting agency includes a fraud alert in the file of a consumer, the consumer credit reporting agency must disclose to the consumer that he or she may request two free copies of the file on the consumer during the 12 month period beginning on the date in which the fraud alert was included in the file.

Fraud alerts do not prevent a credit report from being issued.

##### **Blocking Information Resulting from Identity Theft**

The FCRA provides that a consumer credit reporting agency must block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft, no later than 4 business days after the receipt by such agency of: appropriate proof of the identity of the consumer; a copy of an identity theft report; the identification of such

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<sup>1</sup> 15 U.S.C. ss. 1681 et seq.

information by the consumer; and a statement by the consumer that the information is not related to any transaction by the consumer.

A consumer credit reporting agency is to promptly notify the furnisher of any information that has been identified as information resulting from an alleged identity theft that the information may be the result of identity theft; that an identity theft report has been filed; that a block has been requested; and the effective dates of the block.

A consumer credit reporting agency may decline to block or rescind any block if the consumer credit reporting agency reasonably determines that: the information was blocked in error; a block was requested by the consumer on the basis of material misrepresentation of fact by the consumer relevant to the request to block; or the consumer obtained possession of goods, services, or money as a result of the blocked transaction or transactions.

## **Federal Legislation**

There are two bills currently filed in the United States Senate and three bills filed in the House of Representatives relating to the protection of consumer information.

**S. 737-** The bill amends the FCRA as it relates to consumer reporting agencies furnishing consumer information to the Federal Bureau of Investigation under specific circumstances.

Latest Major Action: 4/6/2005 Referred to Senate Committee on the Judiciary.

**S. 1461-** The bill provides a consumer with the ability to place a security freeze on his or her private information file if the request is made by certified mail, by telephone by providing certain sensitive personal information, or through a secure electronic mail connection if such a connection is made available by the consumer reporting agency.

The bill requires a consumer reporting agency to place the requested freeze no later than 2 business days after receiving the written or telephone request from the consumer and within 24 hours after receiving an electronic mail request. The bill requires the consumer reporting agency to send a written confirmation to the consumer within 2 business days of placing the requested freeze and to provide the consumer a unique personal identification number or password to be used by the consumer to authorize access to the private information file or to remove the freeze from the file.

The bill prohibits a consumer credit reporting agency from charging a fee for placing, temporarily lifting, or removing a security freeze from a consumer's credit report. The bill prohibits a consumer credit reporting agency from charging a fee to replace or reissue the identification number and password the first time the information is provided to the consumer and allows for a fee to be charged, of not more than \$5, for a second or subsequent replacement of such information.

Latest Major Action: 7/21/2005 Referred to Senate Committee on Banking, Housing, and Urban Affairs.

**H.R. 1745-** The bill provides for protection of a consumer's Social Security account number to prevent fraudulent misuse and to otherwise enhance protection against identity theft.

Latest Major Action: 5/19/2005 Referred to House Subcommittee on Financial Institutions and Consumer Credit.

**H.R. 2715-** Similar to H.R. 737, the bill amends the FCRA as it relates to consumer reporting agencies furnishing consumer information to the Federal Bureau of Investigation under specific circumstances.

Latest Major Action: 7/29/2005 Referred to House Subcommittee on Financial Institutions and Consumer Credit.

**H.R. 3140-** The bill amends the FCRA to expand the protections for sensitive personal information in Federal law to cover the information collection and sharing practices of unregulated information brokers, to enhance information security requirements for consumer reporting agencies and information brokers, and to require consumer reporting agencies, financial institutions, and other entities to notify consumers of data security breaches involving sensitive consumer information.

Latest Major Action: 6/30/2005 Referred to House Committee on Financial Services.

### **States Offering a Security Freeze**

Currently, California, Texas, Louisiana, Vermont, Washington, Nevada, Connecticut, Illinois, Maine, and Colorado offer consumers the right to freeze their credit reports. Texas, Vermont, Washington, and Illinois only offer the option to those consumers affected by identity theft. Florida does not provide for any freeze or block on consumer credit information.

This bill is drawn from language contained in California's and New Jersey's legislation.

### **Proposed Changes**

The bill allows a consumer to place a "security freeze" on his or her credit report by making a request in writing by certified mail to a consumer credit reporting agency. The security freeze prohibits the consumer credit reporting agency from releasing the consumer's credit report or any information contained within the report without the authorized consent of the consumer. The security freeze lasts until the consumer requests that it be removed. The bill does not prohibit a consumer credit reporting agency from informing a third party that a particular consumer credit report has been placed under a security freeze.

The bill requires a consumer credit reporting agency to place a security freeze on a consumer's credit report no later than five business days after receiving the written request and requires the consumer credit reporting agency to send a written confirmation of the security freeze to the consumer within five business days of instituting the security freeze. A consumer credit reporting agency must remove the security freeze within three days of notification from the consumer. The bill requires the consumer credit reporting agency to provide the consumer with a personal identification number or password to be used by the consumer in the case where a consumer may wish to provide for the limited release of his or her credit report for a designated period of time during the security freeze.

If the consumer wishes to allow his or her credit report to be accessed for a designated period of time while a security freeze is in effect, he or she must contact the consumer credit reporting agency, request that the freeze be temporarily lifted, and provide: proper identification as determined by the consumer credit reporting agency; the personal identification number or password previously provided to the consumer by the consumer credit reporting agency; and the proper information regarding the specified period of time for which the report shall be made temporarily available.

The bill requires a consumer credit reporting agency to lift the security freeze within three days of receiving a request from a consumer to temporarily lift the security freeze and allows a consumer credit reporting agency to use telephonic communication or any form of secure electronic media to receive and process a request from a consumer to temporarily lift a freeze on a credit report. The bill provides that consumer credit reporting agencies should have a goal of processing such requests within 15 minutes after receiving the request.

The bill allows a third party requesting access to a consumer credit report to treat the application as incomplete if the consumer has not authorized a temporary lifting of the security freeze for the period of time in which the request is made.

### **Exemptions**

The bill provides the following exemptions for use of a credit report by certain entities regardless of a security freeze being placed on a consumer's credit report:

- Any person to whom the consumer owes a financial obligation under certain circumstances;
- A subsidiary, affiliate, agent, assignee of a person to whom access has been granted for purposes of facilitating the extension of credit or other permissible use;
- Any state agency acting within its lawful investigative or regulatory authority;
- A state or local law enforcement agency acting to investigate a crime or conducting a criminal background check;
- Any person administering a credit file monitoring subscription service to which the consumer has subscribed;
- Any person for the purpose of providing a consumer with a copy of the consumer's credit report upon the consumer's request;
- Pursuant to a court order lawfully entered; or
- The use of credit information for the purposes of prescreening as provided for by the FCRA.

In addition, check services companies and demand deposit account information services companies are not required to place a freeze on a consumer's credit report. Resellers of consumer credit information are also exempt, however they must honor a security freeze placed on a consumer credit report.

### **Fees**

The bill allows a consumer credit reporting agency to charge a fee, not to exceed \$5, when a consumer elects to temporarily lift or remove a security freeze on his or her credit report. The bill disallows a consumer credit reporting agency to charge a fee to a consumer wishing to place a security freeze on his or her credit report. A consumer may be charged a fee, not to exceed \$5, if the consumer forgets or misplaces the identification number or password provided by the consumer credit reporting agency and the agency must reissue the information to the consumer.

### **Consumer Information**

The bill does not allow a consumer credit reporting agency to change a consumer's official information in a credit report when a security freeze is in effect without sending a written confirmation of the change to the consumer within 30 days of making the change. "Official information" includes the consumer's name, address, date of birth, and social security number. In the case of an address change, the bill requires the written confirmation to be sent to the new address and the former address of the consumer.

The bill provides that a written confirmation is not required for technical modifications to a consumer's official information including name and street abbreviations, complete spellings, or transposition of numbers or letters.

### **Cause of Action**

The bill creates a new cause of action for any person who is aggrieved by a knowing or willful violation of the provisions of the bill for the recovery of actual and consequential damages, court costs, and attorney's fees.

### **Disclosure**

The bill requires a consumer credit reporting agency to include a written summary of all rights under the bill to a consumer when sending the consumer a written disclosure. The bill details the information that must be included in the written summary of consumer rights, including the right to civil action. Consumer credit reporting agencies which maintain consumer credit reports on a nationwide basis

must provide a toll free telephone number for the consumer to use if he or she wishes to communicate with the consumer credit reporting agency.

**C. SECTION DIRECTORY:**

Section 1. Creates s. 501.005, F.S., authorizing and providing the procedures for a consumer to place a security freeze on his or her credit report. Provides definitions pertaining to a credit report security freeze. Provides procedures for temporary suspension and removal of a security freeze on a credit report. Provides procedures to allow temporary access to a credit report under a security freeze. Authorizes credit reporting agencies to charge a fee to temporarily lift or remove a security freeze and disallows such fees for placing a security freeze on a consumer's credit report. Provides exemptions for certain entities. Provides civil remedy. Provides requirements for written disclosure.

Section 2. Provides that the act will take effect on July 1, 2006.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill allows consumer credit reporting agencies to charge a reasonable fee any time a consumer chooses to temporarily lift or remove a freeze from his or her credit report.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

On October 18, 2005, the Economic Development, Trade and Banking Committee adopted a strike-all amendment to the bill. The amendment does the following:

- Decreases the time in which a consumer credit reporting agency must send a written confirmation of the security freeze to a consumer from 10 days to 5 days.
- Provides that a consumer credit reporting agency must strive to process within 15 minutes a request from a consumer to temporarily lift his or her security freeze.
- Clarifies the entities that are exempt from a security freeze and may access a credit report to include state agencies, local or state law enforcement and other appropriate persons.
- Provides that a consumer credit reporting agency may not charge a consumer to place a security freeze on his or her credit report, but may impose a fee, of not more than \$5, for the consumer to temporarily lift or remove a security freeze from his or her credit report.
- Provides that a consumer credit reporting agency may charge a fee, not more than \$5, if a consumer fails to retain the original personal identification number or password provided by the consumer credit reporting agency and the agency must reissue the information to the consumer.
- Clarifies that a civil action may be brought for the knowing or willful violation of the bill's provisions.
- Provides that a consumer wishing to place a security freeze on his or her credit report must do so in writing by certified mail to a consumer credit reporting agency.
- Clarifies that the temporary lifting of a security freeze is for a specific period of time, not for a specific recipient.

CHAMBER ACTION

1 The Economic Development, Trade & Banking Committee recommends  
2 the following:

3  
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6  
7 A bill to be entitled  
8 An act relating to security of consumer credit report  
9 information; creating s. 501.005, F.S.; authorizing a  
10 consumer to place a security freeze on his or her consumer  
11 credit report; defining "consumer credit report security  
12 freeze"; providing procedures and requirements with  
13 respect to the placement, temporary suspension, and  
14 removal of a security freeze on a consumer credit report;  
15 authorizing a consumer to allow specified temporary access  
16 to his or her credit report during a security freeze;  
17 providing procedures with respect to such temporary  
18 access; providing for removal of a security freeze when a  
19 consumer's credit report was frozen due to a material  
20 misrepresentation of fact by the consumer; providing  
21 applicability; prohibiting a consumer credit reporting  
22 agency from charging a fee to place a security freeze on a  
23 consumer credit report; authorizing consumer credit

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24 reporting agencies to charge a fee to remove or  
 25 temporarily lift a security freeze and to reissue a  
 26 personal identification number or password; restricting  
 27 the change of specified information in a consumer credit  
 28 report when a security freeze is in effect; providing an  
 29 exemption for certain persons or entities; providing for  
 30 civil remedy; providing requirements with respect to  
 31 written disclosure by a consumer credit reporting agency  
 32 of procedures and consumer rights associated with a  
 33 security freeze; providing an effective date.

34  
 35 Be It Enacted by the Legislature of the State of Florida:

36  
 37 Section 1. Section 501.005, Florida Statutes, is created  
 38 to read:

39 501.005 Consumer credit report security freeze.--  
 40 (1) A consumer may place a security freeze on his or her  
 41 consumer credit report by making a request in writing by  
 42 certified mail to a consumer credit reporting agency. For  
 43 purposes of this section, "consumer credit report security  
 44 freeze" or "security freeze" means a notice placed in a  
 45 consumer's credit report that prohibits a consumer credit  
 46 reporting agency from releasing the consumer's credit report or  
 47 any information contained within the credit report to a third  
 48 party without the express authorization of the consumer. This  
 49 section does not prevent a consumer credit reporting agency from  
 50 advising a third party that a security freeze is in effect with  
 51 respect to the consumer's credit report.

52       (2) A consumer credit reporting agency shall place a  
 53 security freeze on a consumer's credit report no later than 5  
 54 business days after receiving a request from the consumer.

55       (3) The consumer credit reporting agency shall send a  
 56 written confirmation of the security freeze to the consumer  
 57 within 5 business days after instituting the security freeze and  
 58 shall provide the consumer with a unique personal identification  
 59 number or password to be used by the consumer when providing  
 60 authorization for the limited release of his or her credit  
 61 report for a designated period of time during the security  
 62 freeze as provided in subsection (4).

63       (4) A consumer may allow his or her credit report to be  
 64 accessed for a designated period of time while a security freeze  
 65 is in effect by contacting the consumer credit reporting agency  
 66 and requesting that the freeze be temporarily lifted. The  
 67 consumer must provide the following information to the consumer  
 68 credit reporting agency as part of the request:

69       (a) Proper identification as determined by the consumer  
 70 credit reporting agency.

71       (b) The unique personal identification number or password  
 72 provided by the consumer credit reporting agency pursuant to  
 73 subsection (3).

74       (c) Information specifying the period of time for which  
 75 the report shall be made available.

76       (5) A consumer credit reporting agency that receives a  
 77 request from a consumer to temporarily lift a freeze on a credit  
 78 report pursuant to subsection (4) shall comply with the request  
 79 no later than 3 business days after receiving the request.

80       (6) A consumer credit reporting agency shall use  
 81 telephonic communication or any form of secure electronic media  
 82 to receive and process a request from a consumer pursuant to  
 83 subsection (4) with the goal of processing a request within 15  
 84 minutes after receipt of such request.

85       (7) A consumer credit reporting agency shall temporarily  
 86 lift or remove a security freeze placed on a consumer's credit  
 87 report only in the following instances:

88       (a) Upon consumer request, pursuant to subsection (4) or  
 89 subsection (10).

90       (b) If the consumer's credit report was frozen due to a  
 91 material misrepresentation of fact by the consumer. If a  
 92 consumer credit reporting agency intends to remove a security  
 93 freeze on a consumer's credit report pursuant to this paragraph,  
 94 the consumer credit reporting agency shall notify the consumer  
 95 in writing prior to removing the security freeze.

96       (8) A third party requesting access to a consumer credit  
 97 report on which a security freeze is in effect in connection  
 98 with an application for credit or other permissible use may  
 99 treat the application as incomplete if the consumer has not  
 100 authorized a temporary lifting of the security freeze for the  
 101 period of time during which the request is made.

102       (9) If a consumer requests a security freeze, the consumer  
 103 credit reporting agency shall disclose to the consumer all  
 104 information relevant to the process of instituting, temporarily  
 105 lifting, and removing a security freeze and shall include the  
 106 disclosure required by subsection (16).

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107        (10) A security freeze shall remain in place until the  
 108 consumer requests that it be removed. A consumer credit  
 109 reporting agency shall remove a security freeze within 3  
 110 business days after receiving a request for removal from the  
 111 consumer, who, upon making the request for removal, must provide  
 112 the following:

113        (a) Proper identification as determined by the consumer  
 114 credit reporting agency.

115        (b) The unique personal identification number or password  
 116 provided by the credit reporting agency pursuant to subsection  
 117 (3).

118        (11) The provisions of this section do not apply to the  
 119 use of a consumer credit report by the following persons or for  
 120 the following reasons:

121        (a) A person to whom the consumer owes a financial  
 122 obligation or a subsidiary, affiliate, or agent of the person,  
 123 or an assignee of a financial obligation owed by the consumer to  
 124 the person, or a prospective assignee of a financial obligation  
 125 owed by the consumer to the person in conjunction with the  
 126 proposed purchase of the financial obligation, with which the  
 127 consumer has or had prior to assignment an account or contract,  
 128 including a demand deposit account, or to whom the consumer  
 129 issued a negotiable instrument, for the purposes of reviewing  
 130 the account or collecting the financial obligation owed for the  
 131 account, contract, or negotiable instrument. For purposes of  
 132 this paragraph, "reviewing the account" includes activities  
 133 related to account maintenance, monitoring, credit line  
 134 increases, and account upgrades and enhancements.

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135        (b) A subsidiary, affiliate, agent, assignee, or  
 136 prospective assignee of a person to whom access has been granted  
 137 under this section for purposes of facilitating the extension of  
 138 credit or other permissible use.

139        (c) A state agency acting within its lawful investigative  
 140 or regulatory authority.

141        (d) A state or local law enforcement agency acting to  
 142 investigate a crime or conducting a criminal background check.

143        (e) Any person administering a credit file monitoring  
 144 subscription service to which the consumer has subscribed.

145        (f) Any person for the purpose of providing a consumer  
 146 with a copy of the consumer's credit report upon the consumer's  
 147 request.

148        (g) Pursuant to a court order lawfully entered.

149        (h) The use of credit information for the purposes of  
 150 prescreening as provided for by the federal Fair Credit  
 151 Reporting Act.

152        (12) A consumer credit reporting agency shall not charge a  
 153 consumer a fee to place a security freeze on the consumer's  
 154 credit report. A consumer credit reporting agency may charge a  
 155 reasonable fee, not to exceed \$5, to a consumer who elects to  
 156 remove or temporarily lift a security freeze on his or her  
 157 consumer credit report. A consumer may be charged a reasonable  
 158 fee, not to exceed \$5, if the consumer fails to retain the  
 159 original personal identification number or password provided by  
 160 the consumer credit reporting agency, and the agency must  
 161 reissue the personal identification number or password or

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162 provide a new personal identification number or password to the  
163 consumer.

164 (13) If a security freeze is in effect, a consumer credit  
165 reporting agency shall not change any of the following official  
166 information in a consumer credit report without sending a  
167 written confirmation of the change to the consumer within 30  
168 days after the change is posted to the consumer's file:

- 169 (a) Name.
- 170 (b) Address.
- 171 (c) Date of birth.
- 172 (d) Social security number.

173

174 Written confirmation is not required for technical corrections  
175 of a consumer's official information, including name and street  
176 abbreviations, complete spellings, or transposition of numbers  
177 or letters. In the case of an address change, the written  
178 confirmation shall be sent to both the new address and the  
179 former address.

180 (14) The provisions of this section do not apply to the  
181 following entities:

182 (a) A check services company, which issues authorizations  
183 for the purpose of approving or processing negotiable  
184 instruments, electronic funds transfers, or similar methods of  
185 payment.

186 (b) A demand deposit account information service company,  
187 which issues reports regarding account closures due to fraud,  
188 substantial overdrafts, automatic teller machine abuse, or  
189 similar negative information regarding a consumer to inquiring

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190 banks or other financial institutions for use only in reviewing  
 191 a consumer request for a demand deposit account at the inquiring  
 192 bank or financial institution, as defined in s. 655.005(1)(g) or  
 193 (h).

194 (c) A consumer credit reporting agency that acts only as a  
 195 reseller of credit information by assembling and merging  
 196 information contained in the database of another consumer credit  
 197 reporting agency or multiple consumer credit reporting agencies  
 198 and does not maintain a permanent database of credit information  
 199 from which new consumer credit reports are produced. However, a  
 200 consumer credit reporting agency shall honor any security freeze  
 201 placed on a consumer credit report by another consumer credit  
 202 reporting agency.

203 (15) In addition to any other penalties or remedies  
 204 provided under law, a person who is aggrieved by a knowing or  
 205 willful violation of the provisions of this section may bring a  
 206 civil action in any court of competent jurisdiction against any  
 207 person or entity, including a consumer credit reporting agency,  
 208 for recovery of actual and consequential damages, court costs,  
 209 and attorney's fees.

210 (16) Any written disclosure by a consumer credit reporting  
 211 agency to any consumer pursuant to this section shall include a  
 212 written summary of all rights the consumer has under this  
 213 section, and, in the case of a consumer credit reporting agency  
 214 which compiles and maintains consumer credit reports on a  
 215 nationwide basis, a toll-free telephone number which the  
 216 consumer can use to communicate with the consumer credit  
 217 reporting agency. The written summary of rights required under

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218 this section is sufficient if it is in substantially the  
219 following form:

220  
221 You have a right to place a "security freeze" on your  
222 credit report, which will prohibit a consumer credit reporting  
223 agency from releasing any information in your credit report  
224 without your express authorization. A security freeze must be  
225 requested in writing by certified mail to a consumer credit  
226 reporting agency. The security freeze is designed to prevent  
227 credit, loans, and services from being approved in your name  
228 without your consent. However, you should be aware that using a  
229 security freeze to control access to the personal and financial  
230 information in your credit report may delay, interfere with, or  
231 prohibit the timely approval of any subsequent request or  
232 application you make regarding a new loan, credit, mortgage,  
233 insurance, government services or payments, rental housing,  
234 employment, investment, license, cellular phone, utilities,  
235 digital signature, Internet credit card transaction, or other  
236 services, including an extension of credit at point of sale.  
237 When you place a security freeze on your credit report, you will  
238 be provided a personal identification number or password to use  
239 if you choose to remove the freeze on your credit report or  
240 authorize the release of your credit report for a designated  
241 period of time after the security freeze is in place. To provide  
242 that authorization, you must contact the consumer credit  
243 reporting agency and provide all of the following:

- 244 (1) The personal identification number or password.  
245 (2) Proper identification to verify your identity.

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246           (3) Information specifying the period of time for which  
247 the report shall be made available.

248  
249           A consumer credit reporting agency must authorize the  
250 release of your credit report no later than 3 business days  
251 after receiving the above information.

252           A security freeze does not apply to a person or entity, or  
253 its affiliates, or collection agencies acting on behalf of the  
254 person or entity, with which you have an existing account, that  
255 requests information in your credit report for the purposes of  
256 reviewing or collecting the account. Reviewing the account  
257 includes activities related to account maintenance, monitoring,  
258 credit line increases, and account upgrades and enhancements.

259           You have the right to bring a civil action against anyone,  
260 including a consumer credit reporting agency, who fails to  
261 comply with the provisions of s. 501.005, Florida Statutes,  
262 which governs the placing of a consumer credit report security  
263 freeze on your consumer credit report. This includes the right  
264 to bring a civil action against any person for recovery of your  
265 actual and consequential damages, court costs, and attorney's  
266 fees caused by a knowing or willful violation of the law.

267           Section 2. This act shall take effect July 1, 2006.



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.1 (for drafter's use only)

23 (3) A consumer reporting agency shall place a security  
24 freeze on a consumer report no later than 5 business days after  
25 receiving a request from the consumer.

26 (4) The consumer reporting agency shall send a written  
27 confirmation of the security freeze to the consumer within 5  
28 business days after instituting the security freeze and shall  
29 provide the consumer with a unique personal identification  
30 number or password to be used by the consumer when providing  
31 authorization for the limited release of his or her consumer  
32 report for a designated period of time during the security  
33 freeze as provided in subsection (5).

34 (5) A consumer may allow his or her consumer report to be  
35 accessed for a designated period of time while a security freeze  
36 is in effect by contacting the consumer reporting agency and  
37 requesting that the freeze be temporarily lifted. The consumer  
38 must provide the following information to the consumer reporting  
39 agency as part of the request:

40 (a) Proper identification as determined by the consumer  
41 reporting agency.

42 (b) The unique personal identification number or password  
43 provided by the consumer reporting agency pursuant to subsection  
44 (3).

45 (c) Information specifying the period of time for which  
46 the report shall be made available.

47 (6) A consumer reporting agency that receives a request  
48 from a consumer to temporarily lift a freeze on a consumer  
49 report pursuant to subsection (5) shall comply with the request  
50 no later than 3 business days after receiving the request.

51 (7) A consumer reporting agency shall develop telephonic  
52 communication or any form of secure electronic media to receive

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.1(for drafter's use only)

53 and process a request from a consumer pursuant to subsection  
54 (5).

55 (8) A consumer reporting agency shall temporarily lift or  
56 remove a security freeze placed on a consumer report only in the  
57 following instances:

58 (a) Upon consumer request, pursuant to subsections (5) or  
59 (11).

60 (b) If the consumer report was frozen due to a material  
61 misrepresentation of fact by the consumer. If a consumer  
62 reporting agency intends to remove a security freeze on a  
63 consumer report pursuant to this paragraph, the consumer  
64 reporting agency shall notify the consumer in writing prior to  
65 removing the security freeze.

66 (9) A third party requesting access to a consumer report  
67 on which a security freeze is in effect in connection with an  
68 application for credit or other permissible use may treat the  
69 application as incomplete if the consumer has not authorized a  
70 temporary lifting of the security freeze for the period of time  
71 during which the request is made.

72 (10) If a consumer requests a security freeze, the  
73 consumer reporting agency shall disclose to the consumer all  
74 information relevant to the process of instituting, temporarily  
75 lifting, and removing a security freeze and shall include the  
76 disclosure required by subsection (17).

77 (11) A security freeze shall remain in place until the  
78 consumer requests that it be removed. A consumer reporting  
79 agency shall remove a security freeze within 3 business days  
80 after receiving a request for removal from the consumer, who,  
81 upon making the request for removal, must provide the following:

82 (a) Proper identification as determined by the consumer  
83 reporting agency.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.1 (for drafter's use only)

84 (b) The unique personal identification number or password  
85 provided by the consumer reporting agency pursuant to subsection  
86 (4).

87 (12) The provisions of this section do not apply to the  
88 use of a consumer report by the following persons or for the  
89 following reasons:

90 (a) A person to whom the consumer owes a financial  
91 obligation or a subsidiary, affiliate, or agent of the person,  
92 or an assignee of a financial obligation owed by the consumer to  
93 the person, or a prospective assignee of a financial obligation  
94 owed by the consumer to the person in conjunction with the  
95 proposed purchase of the financial obligation, with which the  
96 consumer has or had prior to assignment an account or contract,  
97 including a demand deposit account, or to whom the consumer  
98 issued a negotiable instrument, for the purposes of reviewing  
99 the account or collecting the financial obligation owed for the  
100 account, contract, or negotiable instrument. For purposes of  
101 this paragraph, "reviewing the account" includes activities  
102 related to account maintenance, monitoring, credit line  
103 increases, and account upgrades and enhancements.

104 (b) A subsidiary, affiliate, agent, assignee, or  
105 prospective assignee of a person to whom access has been granted  
106 under this section for purposes of facilitating the extension of  
107 credit or other permissible use.

108 (c) A state agency acting within its lawful investigative  
109 or regulatory authority.

110 (d) A state or local law enforcement agency acting to  
111 investigate a crime or conducting a criminal background check.

112 (e) Any person administering a credit file monitoring  
113 subscription service to which the consumer has subscribed.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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114 (f) Any person for the purpose of providing a consumer  
115 with a copy of the consumer report upon the consumer's request.

116 (g) Pursuant to a court order lawfully entered.

117 (h) The use of credit information for the purposes of  
118 prescreening as provided for by the federal Fair Credit  
119 Reporting Act.

120 (13) A consumer reporting agency shall not charge any  
121 fee to a victim of identity theft who has submitted, at the time  
122 the security freeze is requested, a copy of a valid  
123 investigative or incident report or complaint with a law  
124 enforcement agency about the unlawful use of the victim's  
125 identifying information by another person. A consumer reporting  
126 agency may charge a reasonable fee, not to exceed \$10, to a  
127 consumer who elects to place, remove, or temporarily lift a  
128 security freeze on his or her consumer report. A consumer may be  
129 charged a reasonable fee, not to exceed \$10, if the consumer  
130 fails to retain the original personal identification number or  
131 password provided by the consumer reporting agency, and the  
132 agency must reissue the personal identification number or  
133 password or provide a new personal identification number or  
134 password to the consumer.

135 (14) If a security freeze is in effect, a consumer  
136 reporting agency shall not change any of the following official  
137 information in a consumer report without sending a written  
138 confirmation of the change to the consumer within 30 days after  
139 the change is posted to the consumer's file:

140 (a) Name.

141 (b) Address.

142 (c) Date of birth.

143 (d) Social security number.

144

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.1(for drafter's use only)

145 Written confirmation is not required for technical corrections  
146 of a consumer's official information, including name and street  
147 abbreviations, complete spellings, or transposition of numbers  
148 or letters. In the case of an address change, the written  
149 confirmation shall be sent to both the new address and the  
150 former address.

151 (15) The provisions of this section do not apply to the  
152 following entities:

153 (a) A check services company, which issues authorizations  
154 for the purpose of approving or processing negotiable  
155 instruments, electronic funds transfers, or similar methods of  
156 payment.

157 (b) A demand deposit account information service company,  
158 which issues reports regarding account closures due to fraud,  
159 substantial overdrafts, automatic teller machine abuse, or  
160 similar negative information regarding a consumer to inquiring  
161 banks or other financial institutions for use only in reviewing  
162 a consumer request for a demand deposit account at the inquiring  
163 bank or financial institution, as defined in s. 655.005(1)(g) or  
164 (h), or in federal law.

165 (c) A consumer reporting agency that acts only as a  
166 reseller of credit information by assembling and merging  
167 information contained in the database of another consumer  
168 reporting agency or multiple consumer reporting agencies and  
169 does not maintain a permanent database of credit information  
170 from which new consumer reports are produced. However, a  
171 consumer reporting agency shall honor any security freeze placed  
172 on a consumer report by another consumer reporting agency.

173 (d) A fraud prevention services company issuing reports  
174 to prevent or investigate fraud.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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175       (16) In addition to any other penalties or remedies  
176 provided under law, a person who is aggrieved by a violation of  
177 the provisions of this section may bring a civil action as  
178 authorized by this subsection.

179       (a) Any person who willfully fails to comply with any  
180 requirement imposed under this section with respect to any  
181 consumer is liable to that consumer for actual damages sustained  
182 by the consumer as a result of the failure or damages of not  
183 less than \$100 and not more than \$1,000.

184       (b) Any individual who obtains a consumer report under  
185 false pretenses or knowingly without a permissible purpose is  
186 liable to the consumer for actual damages sustained by the  
187 consumer as a result of the failure or damages of not less than  
188 \$100 and not more than \$1,000, whichever is greater. Any person  
189 who obtains a consumer report from a consumer reporting agency  
190 under false pretenses or knowingly without a permissible purpose  
191 is liable to the consumer reporting agency for actual damages  
192 sustained by the consumer reporting agency or \$1,000, whichever  
193 is greater.

194       (c) Punitive damages may be assessed for willful  
195 violations of this section.

196       (d) Any person who is negligent in failing to comply with  
197 any requirement imposed under this section with respect to any  
198 consumer is liable to that consumer for any actual damages  
199 sustained by the consumer as a result of the failure, plus the  
200 costs of the action together with reasonable attorney's fees.

201       (e) Upon a finding by the court that an unsuccessful  
202 pleading, motion, or other paper filed in connection with an  
203 action under this subsection was filed in bad faith or for  
204 purposes of harassment, the court shall award to the prevailing  
205 party attorney's fees that are reasonable in relation to the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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206 work performed in responding to the pleading, motion, or other  
207 paper.

208 (17) Any written disclosure by a consumer reporting  
209 agency to any consumer, pursuant to 15 U.S.C. s. 1681g, shall  
210 include a written summary of all rights the consumer has under  
211 this section, and, in the case of a consumer reporting agency  
212 which compiles and maintains consumer reports on a nationwide  
213 basis, a toll-free telephone number which the consumer can use  
214 to communicate with the consumer reporting agency. The  
215 information set forth in paragraph (b) of the written summary of  
216 rights must be in at least 14-point boldface type in capital  
217 letters. The written summary of rights required under this  
218 section is sufficient if it is substantially in the following  
219 form:

220 (a) You have a right to place a "security freeze" on your  
221 consumer report, which will prohibit a consumer reporting agency  
222 from releasing any information in your consumer report without  
223 your express authorization. A security freeze must be requested  
224 in writing by certified mail to a consumer reporting agency. The  
225 security freeze is designed to prevent credit, loans, and  
226 services from being approved in your name without your consent.

227 (b) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO  
228 CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN YOUR  
229 CONSUMER REPORT MAY DELAY, INTERFERE WITH, OR PROHIBIT THE  
230 TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION YOU  
231 MAKE REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE,  
232 GOVERNMENT SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT,  
233 INVESTMENT, LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL  
234 SIGNATURE, INTERNET CREDIT CARD TRANSACTION, OR OTHER SERVICES,  
235 INCLUDING AN EXTENSION OF CREDIT AT POINT OF SALE.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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236           (c) When you place a security freeze on your consumer  
237 report, you will be provided a personal identification number or  
238 password to use if you choose to remove the freeze on your  
239 consumer report or authorize the release of your consumer report  
240 for a designated period of time after the security freeze is in  
241 place. To provide that authorization, you must contact the  
242 consumer reporting agency and provide all of the following:

- 243           1. The personal identification number or password.  
244           2. Proper identification to verify your identity.  
245           3. Information specifying the period of time for which  
246 the report shall be made available.

247           (d) A consumer reporting agency must authorize the  
248 release of your consumer report no later than 3 business days  
249 after receiving the above information.

250           (e) A security freeze does not apply to a person or  
251 entity, or its affiliates, or collection agencies acting on  
252 behalf of the person or entity, with which you have an existing  
253 account, that requests information in your consumer report for  
254 the purposes of reviewing or collecting the account. Reviewing  
255 the account includes activities related to account maintenance,  
256 monitoring, credit line increases, and account upgrades and  
257 enhancements.

258           (f) You have the right to bring a civil action against  
259 anyone, including a consumer reporting agency, who fails to  
260 comply with the provisions of s. 501.005, Florida Statutes,  
261 which governs the placing of a consumer report security freeze  
262 on your consumer report.

263           Section 2. This act shall take effect July 1, 2006.

264  
265  
266 ===== T I T L E   A M E N D M E N T =====

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.1 (for drafter's use only)

267 Remove the entire title and insert:  
268

269 A bill to be entitled

270 An act relating to security of consumer report  
271 information; creating s. 501.005, F.S.; defining "consumer  
272 report security freeze"; authorizing a consumer to place a  
273 security freeze on his or her consumer report; providing  
274 procedures and requirements with respect to the placement,  
275 temporary suspension, and removal of a security freeze on  
276 a consumer report; authorizing a consumer to allow  
277 specified temporary access to his or her consumer report  
278 during a security freeze; providing procedures with  
279 respect to such temporary access; providing for removal of  
280 a security freeze when a consumer report was frozen due to  
281 a material misrepresentation of fact by the consumer;  
282 providing applicability; prohibiting a consumer reporting  
283 agency from charging a fee to a victim of identity theft  
284 who requests a security freeze on a consumer report;  
285 authorizing consumer reporting agencies to charge a fee to  
286 place, remove, or temporarily lift a security freeze and  
287 to reissue a personal identification number; restricting  
288 the change of specified information in a consumer report  
289 when a security freeze is in effect; specifying  
290 applicability with respect to certain consumer reporting  
291 agencies; specifying entities that are exempt from placing  
292 a security freeze on a consumer report; providing for  
293 civil remedy; providing requirements with respect to  
294 written disclosure by a consumer reporting agency of  
295 procedures and consumer rights associated with a security  
296 freeze; providing an effective date.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 365  
SPONSOR(S): Glorioso  
TIED BILLS:

Motor Vehicle Repair Shops

IDEN./SIM. BILLS: SB 108

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| REFERENCE   | ACTION | ANALYST | STAFF DIRECTOR |
|---|--------|---------|----------------|
| 1) Agriculture Committee                              | _____  | Reese   | Reese          |
| 2) Insurance Committee                                | _____  | _____   | _____          |
| 3) Governmental Operations Committee                  | _____  | _____   | _____          |
| 4) Agriculture & Environment Appropriations Committee | _____  | _____   | _____          |
| 5) State Resources Council                            | _____  | _____   | _____          |

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SUMMARY ANALYSIS

HB 365 authorizes citation of the act as the "Abelardo 'Al' Castillo Act".

The bill requires a motor vehicle repair shop to provide proof of at least \$300,000 of liability insurance on repairs performed by the shop as a condition of registration or renewal of registration with the Department of Agriculture and Consumer Services (department). The failure to provide proof of liability insurance is grounds for denial, revocation, or refusal of registration by the department. This bill also provides the department with the authority to impose an administrative fine of not more than \$5,000 if the repair shop does not maintain the required insurance, and also provides a criminal penalty for failure to maintain the required insurance.

This bill will not have a fiscal impact on state or local government.

This bill will take effect July 1, 2006.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility – This bill requires a motor vehicle repair shop to purchase liability coverage of at least \$300,000 on repairs performed by the shop.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Florida Motor Vehicle Repair Act**

The Florida Motor Vehicle Repair Act is contained in ss. 559.901- 559.9221, F.S. The act requires all motor vehicle repair shops to register with the Department of Agriculture and Consumer Services (department).<sup>1</sup> The act also requires repair shops to provide estimates for repairs, invoices for completed repairs,<sup>2</sup> and makes it unlawful for the cost of repairs to exceed the estimate by specified amounts.<sup>3</sup> The act provides that certain actions are prohibited, including, but not limited to: making or charging for repairs not authorized by the customer; misrepresenting certain parts and services necessary to repair a vehicle; and, willfully departing from accepted practices and professional standards.<sup>4</sup>

The Florida Motor Vehicle Repair Act does not apply to the following motor vehicle repair shops:

- Any motor vehicle repair shop of municipal, county, state, or federal government when carrying out the functions of the government;
- Any person who engages solely in the repair of:
  - motor vehicles which are owned, maintained, and operated exclusively by such person for that person's own use; or
  - for-hire vehicles, as defined in s. 320.01(15) (a), F.S., which are rented for periods of 30 days or less;
- Any person who repairs only motor vehicles which are operated principally for agricultural and horticultural pursuits on farms, groves, and orchards;
- Motor vehicle auctions licensed under s. 320.27(1)(c)4, F.S., and persons performing motor vehicle repair solely for such auctions; and
- Any shop located in a public school as defined in s. 1000.04, F.S., or a charter technical career center as defined in s. 1002.34, F.S.

However, these motor vehicle repair shops may voluntarily register under the act.<sup>5</sup>

##### **Vehicle Repair Shop Registration**

Section 559.904(1), F.S., requires applicants registering for motor vehicle repair shops to provide the following information:

- The name of the applicant;
- The name under which the applicant is doing business;
- The business address at which the applicant performs repair work or in the case of a mobile motor vehicle repair shop, the home address of the owner, if different from the business address;

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<sup>1</sup> Section 559.904, F.S.

<sup>2</sup> Section 559.905, F.S.

<sup>3</sup> Section 559.909, F.S.

<sup>4</sup> Section 559.920, F.S.

<sup>5</sup> Section 559.902, F.S.

- Copies of all licenses, permits, and certifications obtained by the applicant or employees of the applicant; and
- The numbers of employees which the applicant intends to employ or which are currently employed.

Each application for registration must be accompanied by a registration fee calculated on a per-year basis as follows: If the place of business has 1 to 5 employees, the fee is \$50; if the place of business has 6 to 10 employees, the fee is \$150; and, if the place of business has 11 or more employees, the fee is \$300.<sup>6</sup>

### **Enforcement Authority**

If a motor vehicle repair shop violates the provisions of s. 559.921(4)(a), F.S., which violations include:

- Making a material false statement in any application, document, or record required to be submitted or retained under this part;
- Refusal or failure, or any of its principal officers refusing or failing, after notice, to produce any document or record or disclose any information required to be produced or disclosed under this part or the rules of the department; or
- Making a material false statement in response to any request or investigation by the department, the Department of Legal Affairs, or the state attorney;

the department may:

- Issue a notice of noncompliance pursuant to s. 120.695, F.S.;
- Impose an administrative fine not to exceed \$1,000 per violation for each act which constitutes a violation of this part or a rule or order;
- Direct that the motor vehicle repair shop cease and desist specified activities;
- Refuse to register or revoke or suspend a registration; or
- Place the registrant on probation for a period of time, subject to such conditions as the department may specify.

### **HB 365**

Per the bill's sponsor, this proposed legislation was prompted by the death of Mr. Abelardo "Al" Castillo, who was killed in 2001 following repair work done at a small vehicle repair shop in Pasco County. A wheel was improperly fastened to Mr. Castillo's car and came off while he was driving home. He died in the ensuing accident. Mr. Castillo, 41 at the time of his death, was survived by his wife and five small children.

Mr. Castillo's widow attempted to file charges against the owner of the repair shop but was told no criminal violation had occurred. She also attempted to seek civil damages from the owner and was told that there are no statutes requiring liability coverage for work performed in a vehicle repair shop. A civil action against the shop's owner personally also was not successful. The owner was quoted in the St. Petersburg Times as stating that he had liability insurance but let it lapse a few months before the accident.<sup>7</sup>

The bill requires a motor vehicle repair shop to obtain liability coverage for repairs performed by the shop of at least \$300,000, and provides that failure to maintain the required coverage is grounds for denial, revocation, or refusal of registration with the department. The bill also provides the department with the authority to impose an administrative fine of not more than \$5,000 if the repair shop does not maintain the required insurance, and also provides a criminal penalty, established as a misdemeanor of the second degree, for failure to maintain the required insurance. The bill provides an effective date of July 1, 2006.

<sup>6</sup> Section 559.904(3), F.S.

<sup>7</sup> *St. Petersburg Times*, Jan. 28, 2005

C. SECTION DIRECTORY:

**Section 1.** Designates the act as the "Abelardo 'Al' Castillo Act."

**Section 2.** Amends s. 559.904, F.S., to require certain motor vehicle repair shops to have liability insurance in the amount of \$300,000 on repairs they perform as a condition of registration or renewal of registration, and provides that failure to maintain such insurance is grounds for denial, revocation, or refusal of registration by the department.

**Section 3.** Amends s. 559.921, F.S., to provide authority to the department to impose a fine not to exceed \$5,000 if a motor vehicle repair shop fails to maintain the required insurance. This section also provides a criminal penalty, established as a misdemeanor of the second degree, for failure of a motor vehicle repair shop to maintain the required insurance.

**Section 4.** Provides an effective date of July 1, 2006.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the Department of Agriculture and Consumer Services (department), this bill will not have a revenue impact on state government.

2. Expenditures:

According to the department, this bill will not require it to expend funds to implement the bill's provisions.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Certain motor vehicle repair shops will be required to purchase liability coverage for repairs, which may be an additional cost of doing business to those repair shops.

D. FISCAL COMMENTS:

The criminal penalty established by the bill for failure to maintain the required insurance may result in some expenses related to criminal prosecution for enforcement. The cost is indeterminate.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, nor does it reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor does it reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

None

#### B. RULE-MAKING AUTHORITY:

N/A

#### C. DRAFTING ISSUES OR OTHER COMMENTS: None

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A

1 A bill to be entitled

2 An act relating to motor vehicle repair shops; amending s.  
 3 559.904, F.S.; requiring applicants for registration to  
 4 furnish proof of certain liability insurance; providing  
 5 that failure to maintain such insurance is grounds for  
 6 denial, revocation, or refusal to renew a registration;  
 7 amending s. 559.921, F.S.; providing that a violation of  
 8 the requirement to maintain liability insurance is a  
 9 criminal violation; providing administrative fines and  
 10 criminal penalties; providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14 Section 1. This act may be cited as the "Abelardo 'Al'  
 15 Castillo Act."

16 Section 2. Subsection (10) of section 559.904, Florida  
 17 Statutes, is amended, and subsection (13) is added to that  
 18 section, to read:

19 559.904 Motor vehicle repair shop registration;  
 20 application; exemption.--

21 (10) The department may deny, revoke, or refuse to renew  
 22 the registration of a motor vehicle repair shop based upon a  
 23 determination that the motor vehicle repair shop, or any of its  
 24 directors, officers, owners, or general partners:

25 (a) Have failed to meet the requirements for registration  
 26 as provided in this part;

27 (b) Have not satisfied a civil fine, administrative fine,  
 28 or other penalty arising out of any administrative or

29 enforcement action brought by any governmental agency based upon  
 30 conduct involving fraud, dishonest dealing, or any violation of  
 31 this part;

32 (c) Have had against them any civil, criminal, or  
 33 administrative adjudication in any jurisdiction, based upon  
 34 conduct involving fraud, dishonest dealing, or any violation of  
 35 this part; ~~or~~

36 (d) Have had a judgment entered against them in any action  
 37 brought by the department or the state attorney pursuant to ss.  
 38 501.201-501.213 or this part; or

39 (e) Have not maintained in force the insurance required  
 40 under subsection (13).

41 (13) Each applicant for an initial or renewal registration  
 42 under this section shall provide the department with evidence of  
 43 current and valid liability insurance in an amount not less than  
 44 \$300,000 on repairs performed by the motor vehicle repair shop.  
 45 The department shall require that an applicant present a  
 46 certificate of insurance issued by an insurance company or  
 47 carrier authorized to transact business in this state before an  
 48 initial or renewal registration certificate may be issued to the  
 49 applicant.

50 Section 3. Paragraph (b) of subsection (4) of section  
 51 559.921, Florida Statutes, is amended, and subsection (9) is  
 52 added to that section, to read:

53 559.921 Remedies.--

54 (4)

55 (b) Upon a finding as set forth in paragraph (a), the  
 56 department may enter an order doing one or more of the

57 following:

58 1. Issuing a notice of noncompliance pursuant to s.  
59 120.695.

60 2. Imposing an administrative fine not to exceed \$1,000  
61 per violation for each act which constitutes a violation of this  
62 part or a rule or order.

63 3. Imposing an administrative fine not to exceed \$5,000  
64 per violation for failure to maintain the liability insurance  
65 required under s. 559.904(13).

66 ~~4.3.~~ Directing that the motor vehicle repair shop cease  
67 and desist specified activities.

68 ~~5.4.~~ Refusing to register or revoking or suspending a  
69 registration.

70 ~~6.5.~~ Placing the registrant on probation for a period of  
71 time, subject to such conditions as the department may specify.

72 (9) A person who engages in motor vehicle repair and does  
73 not maintain current and valid liability insurance as required  
74 under s. 559.904(13) commits a misdemeanor of the second degree,  
75 punishable as provided in s. 775.082 or s. 775.083.

76 Section 4. This act shall take effect July 1, 2006.

**METTING HAND OUT**

# FLORIDA AGRICULTURAL COALITION

## AGRICULTURAL HURRICANE RELIEF PROPOSALS (updated 12/1/05)

A. DUDA & SONS  
ALICO, INC.  
BEN HILL GRIFFIN, INC.  
DADE COUNTY FARM BUREAU  
FLORIDA AGRIPARTNERS  
FLORIDA CATTLEMEN'S ASSOCIATION  
FLORIDA CITRUS MUTUAL  
FLORIDA CITRUS PROCESSORS ASSOCIATION  
FLORIDA CRYSTALS CORPORATION  
FLORIDA FARM BUREAU FEDERATION  
FLORIDA FERTILIZER & AGRICHEMICAL ASSOCIATION  
FLORIDA FORESTRY ASSOCIATION  
FLORIDA FRUIT & VEGETABLE ASSOCIATION  
FLORIDA LAND COUNCIL  
FL NURSERY, GROWERS & LANDSCAPE ASSOCIATION  
FLORIDA PHOSPHATE COUNCIL  
FLORIDA POULTRY FEDERATION  
FLORIDA PULP & PAPER ASSOCIATION  
FLORIDA STRAWBERRY GROWERS ASSOCIATION  
GULF CITRUS GROWERS ASSOCIATION  
HILLIARD BROS. OF FLORIDA  
INDIAN RIVER CITRUS LEAGUE  
LYKES BROS., INC.  
PEACE RIVER VALLEY CITRUS GROWERS ASSOCIATION  
SMURFIT-STONE CONTAINER CORP.  
SOUTHERN GARDENS CITRUS  
SUGAR CANE GROWERS COOPERATIVE OF FLORIDA  
SUNSHINE STATE MILK PRODUCERS  
U.S. SUGAR CORPORATION

### \* CITRUS CANCKER ERADICATION FUNDING

- \$28.25 million Citrus Canker Eradication
- \$9.87 million Shade Florida Card
- \$6.78 million Homeowner Compensation

### \* FARM INFRASTRUCTURE RECONSTRUCTION FUNDING

- 0% interest loans
- \$200 million funding
- Repayment per Section 570.249, (6), F.S.
- \$2 million cap per applicant
- Expanded list of activities covered per 570.249, F.S.

### \* AG HURRICANE DEBRIS REMOVAL

- \$14 million as a state contribution
- Funding partnership: 1/3 State, 1/3 Local Gov., 1/3 Farmer

### \* MIGRANT FARMWORKER HOUSING

- \$50 million program

### \* SMALL FARMER BRIDGE LOANS

- \$20 million program
- \$25,000 cap per applicant, plus gross income limitations
- 365 day repayment period

### \* WAIVER OF CERTAIN STATE, WMD'S AND LOCAL PERMITS FOR SEVERAL MONTHS

- Permits for burning of hurricane debris
- Waive weight restrictions for trucks hauling agricultural loads
- Replacement of mobile homes for farmworker housing
- Cleaning of ditches and canals

### \* STATE GAS/ FUEL TAX EXEMPTION FOR AGRICULTURAL ON-ROAD TRAVEL FOR ONE YEAR

- Certified ag operator
- Receipts required

P.O. BOX 1696 . TALLAHASSEE, FL 32302 . PHONE 850-222-5646 . FAX 222-6179

EMAIL: ALAN@FORESTFLA.ORG . WWW.FLAGCOALITION.COM